

Accountability of Investigating Agencies vis-a-vis Victim's Rights in the Criminal Justice System of India: Legal Challenges and Reforms

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Abstract— Indian criminal procedure has gradually recognised the victim as a participant and not merely a witness, yet the agencies that control the first and most consequential stage of the process, investigation, remain answerable mainly to their own hierarchies and to courts that intervene intermittently. This paper examines how far the present legal framework makes investigating agencies answerable to victims, and where it does not. It uses a doctrinal and analytical method, drawing on the Constitution, the Code of Criminal Procedure 1973 (CrPC), the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), thirteen Supreme Court decisions selected purposively, official committee reports, reports of non-governmental organisations and published national crime statistics. Accountability is analysed through three dimensions drawn from Bovens and Schedler, namely answerability, enforceability and participation, across four stages: registration, investigation, closure and the interface with trial. The analysis finds that the BNSS strengthens information duties, notably the ninety-day progress communication in section 193(3)(ii), but that most victim-directed duties still lack an identified forum, a consequence for non-compliance, or a route the victim

can invoke; that judicial safeguards have been articulated more fully for arrested and detained persons than for victims at the investigative stage; and that national aggregate statistics cannot show whether victims are informed or heard. The paper recommends consequence-bearing duties, a victim-accessible review route, structured compliance data and the institutional reforms already urged in earlier reports. No primary empirical data were collected, and the findings are doctrinal and indicative, not causal.

Keywords: Investigating agencies; victims' rights; police accountability; Bharatiya Nagarik Suraksha Sanhita; criminal procedure; India; access to justice

I. INTRODUCTION

Background and Context

For most victims of crime in India, the criminal process starts from the police station and continues there for a long time. It is the records kept by the police, the evidence collected, and the decision to either file a charge-sheet or a closure report

that determines the scope of what a court will later investigate. In *Zahira Habibulla H. Sheikh v. State of Gujarat*, the Supreme Court related the standard of investigation to the fairness of the trial, noting that fairness is not only the property of the accused but also of the victims and society.¹ Similarly, in *Malimath Committee* (2003), investigation was identified as the core problem and a recommendation was made to separate the investigative and law-and-order functions.²

The role and status of the victim underwent major changes. The Code of Criminal Procedure 1973 (CrPC) had no definition of a victim. A 2009 amendment defined the concept of the victim, granted victims' right to appeal in cases of acquittal, conviction for less serious offences, and insufficient compensation, and provided state schemes of compensation.³ The *Bharatiya Nagarik Suraksha Sanhita* 2023 (BNSS), which came into effect on 1 July 2024 and repealed the CrPC, further expanded the duties of the police towards the victims and the informants. Noteworthy is section 193(3)(ii) which obliges the police to inform the informant/victim about the progress of the investigation within ninety days using any method, including electronic means.⁴ In *Jagjeet Singh v. Ashish Mishra*, the Supreme Court stated that the right to be heard belongs to the victim from the investigative stage up to the end of any appeals or revision procedures, and that presence of the State does not substitute the hearing of the victim.⁵

These changes were not accompanied with an equally explicit conception of accountability for the failures of the investigation and with the means of exercising such accountability. The National Crime Records Bureau (NCRB, 2025) reported that in 2023 the rate of filing the charge-sheets and convictions were 72.7 and 54.0 percent correspondingly

for offences under the Indian Penal Code.⁶ Although aggregate figures of this kind do not reflect the treatment of victims and cannot be entirely blamed on the investigation, they, however, clearly demonstrate that there are many reported crimes that do not end in convictions, thus emphasizing the importance of investigation as an issue of concern both for victims and accused persons.

Key Concepts and Terminology

The term "investigating agencies" includes police performing investigative tasks as station house officers and investigating officers according to the CrPC and BNSS, as well as specialized agencies which have similar statutory powers. Victim is defined as an individual who has suffered losses or injuries caused by the act or omission of the accused person, including his/her guardian or legal heir.⁷ Informant, who provides первоначальный information, may or may not be a victim, and some of the duties prescribed by the BNSS are assigned to one of the parties, and some duties are assigned to both. Accountability in this study is defined as the concept elaborated by Bovens (2007): a relation when an actor has to explain and justify its actions to a forum which can question and evaluate them, with the possibility that the actor may have to bear some consequences because of this.⁸ Victims' rights are considered as procedural guarantees (e.g., the right to be informed, to be heard, to be treated respectfully), and not as discretionary rights to influence the prosecution.

Theoretical and Conceptual Context

This study is based on two academic traditions: models of the criminal process and the position of the victim in them (Packer, 1964; Roach, 1999),⁹ and the literature on the concept of accountability (Schedler, 1999; Bovens, 2007).¹⁰ The normative context of the research is provided by the

¹ *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158.

² Government of India, *Report of the Committee on Reforms of Criminal Justice System*, vol. 1 (Ministry of Home Affairs, 2003).

³ The Code of Criminal Procedure (Amendment) Act, 2008 (Act 5 of 2009), ss. 2(wa), 357A and 372.

⁴ The *Bharatiya Nagarik Suraksha Sanhita*, 2023 (Act 46 of 2023), s. 193(3)(ii).

⁵ *Jagjeet Singh v. Ashish Mishra*, (2022) 9 SCC 321, paras 22–24.2.

⁶ National Crime Records Bureau, *Crime in India 2023* 45 (Ministry of Home Affairs, 2025).

⁷ The *Bharatiya Nagarik Suraksha Sanhita*, 2023, s. 2(1)(y); The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 2(wa).

⁸ Mark Bovens, "Analysing and Assessing Accountability: A Conceptual Framework" 13 *European Law Journal* 447 (2007).

⁹ Herbert L. Packer, "Two Models of the Criminal Process" 113 *University of Pennsylvania Law Review* 1 (1964); Kent Roach, *Due Process and Victims' Rights: The New Law and Politics of Criminal Justice* (University of Toronto Press, Toronto, 1999).

¹⁰ Andreas Schedler, "Conceptualizing Accountability" in Andreas Schedler, Larry Diamond and Marc F. Plattner (eds.), *The Self-Restraining State: Power and Accountability in New Democracies* 13 (Lynne Rienner Publishers, Boulder, 1999); Bovens, *supra* note 8.

Constitution of India, where Article 21 is interpreted as a requirement for criminal procedure to be fair, and Article 14 prohibits arbitrary exercise of state power.¹¹

Challenges, Research Gap and Rationale

Three issues remain open. First, whether duties imposed by statutes towards the victims during the investigation bear some consequences when these duties are violated. Second, whether any forum outside the hierarchical system of the investigating agency is able to examine compliance with those duties, and whether victims can access this forum. Third, whether these duties can be strengthened without compromising the protection of the accused person, as emphasized in the literature on victims' rights (Ashworth, 2000).¹² The literature reviewed in this study covers the issues of victims' rights and police accountability, but the sources analyzed rarely combine these issues at the level of specific duties and remedies and the BNSS has never been considered in this way before. This study neither contradicts the existing literature nor repeats it; it merely attempts to address the narrow gap identified above. The rationale behind this study is practical: if information and consultation duties are meant to increase victims' trust to the process, as claimed in the literature on procedural justice (Tyler, 2003),¹³ then the law should provide for the enforcer.

II. LITERATURE REVIEW

Victims in Models of the Criminal Process

The two models for crime control and due process in criminal procedure elaborated by Packer (1964) have influenced the debate over the criminal procedure, and none of them includes any role of victims explicitly. Roach (1999) argues that the rights movements of victims in North America adopted a punitive, crime-control inspired model that puts victims against defendants, and proposed a non-punitive

alternative based on information, support and respectful treatment, which he regards as more compatible with due process. Ashworth (2000) too distinguishes between information, support and respectful treatment rights from participation in outcomes and cautions against the potential conflict between the latter and the rights of the defendant and the public nature of prosecution. Doak (2008) makes the claim that victims must be considered third parties with the right to participate grounded in human rights and, in particular, the right to an effective investigation in accordance with the European human rights jurisprudence.¹⁴ Wemmers (2017) takes the same human-rights approach, and Kirchengast (2006) describes the evolution of the role of victims in criminal law, starting from a private prosecutor to a witness and to a participant.¹⁵

Though these authors all agree that victims deserve a status higher than that of witnesses, they disagree on the level of participation. Information and service rights, which is the category of most relevance to investigation, are least controversial thus making their enforcement difficult. The 1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power is the result of this agreement, calling for fair treatment, information concerning the progress of proceedings and for the victims to present their views (United Nations General Assembly, 1985).¹⁶ UN Handbook for the Implementation of the Declaration was published in 1999.¹⁷

Victimology and Criminological Foundations

While criminology initially treated the victim as the subject of study only, it took some time before the issue of the rights of victims began to be discussed. The early victimology was focused on the relationship between the victim and the offender and the involvement of the victims in the crime (von

¹¹ The Constitution of India, arts. 14 and 21.

¹² Andrew Ashworth, "Victims' Rights, Defendants' Rights and Criminal Procedure" in Adam Crawford and Jo Goodey (eds.), *Integrating a Victim Perspective within Criminal Justice: International Debates* 185 (Ashgate, Aldershot, 2000).

¹³ Tom R. Tyler, "Procedural Justice, Legitimacy, and the Effective Rule of Law" 30 *Crime and Justice* 283 (2003).

¹⁴ Jonathan Doak, *Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties* (Hart Publishing, Oxford, 2008).

¹⁵ Jo-Anne Wemmers, *Victimology: A Canadian Perspective* (University of Toronto Press, Toronto, 2017); Tyrone Kirchengast, *The Victim in Criminal Law and Justice* (Palgrave Macmillan, Basingstoke, 2006).

¹⁶ United Nations General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, Resolution 40/34 (29 November 1985).

¹⁷ United Nations Office for Drug Control and Crime Prevention, *Handbook on Justice for Victims: On the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1999).

Hentig, 1948; Wolfgang, 1958; Schafer, 1968).¹⁸ Such a perspective came under criticism as it put emphasis on the behaviour of victims prompting subsequent critical and rights-based approaches to investigate how victims were conceptualized and situated in the criminal process (Fattah, 1992; Walklate, 2007).¹⁹ Rock (2004) provides the evolution of the claims of victims and their recognition in the official policy of England and Wales.²⁰ The literature on participation has some cautionary tone as well: Erez (1990) doubts whether the input of the victims into the sentence-making process is what it promises, and Ashworth (1993) examines the challenges posed by victim impact statements to the principles of sentencing.²¹ Indian criminological literature places the issue of victims into the context of the criminal justice process as a whole and its human rights aspects (Vibhute, 2004).²² These works describe how victims are recognized, but provide little consideration of the duties of investigating agencies, which is the issue of this research.

Victim Experience and Procedural Justice

Empirical research of the victims' experience in England has shown that often their dissatisfaction correlated with the lack of information and the perception of themselves as nothing but evidence (Shapland et al., 1985).²³ Later research has characterized secondary victimization, meaning additional harm that could be caused by the actions of the police and the court, especially in cases of rape complaints (Campbell & Raja, 1999) or in general in criminal proceedings (Orth,

2002).²⁴ Herman (2003) argues that the process of legal procedures often fails to take into account the victims' need of recognition.²⁵ Procedural-justice research can help to explain the issue: Tyler (2003, 2006) shows that the acceptance of the legal authority depends heavily on the perception of procedural justice, or in other words on having voice, receiving respectful treatment and being given reasons for something instead of outcomes.²⁶ Hall (2009) warns that the statements of victims' rights in England and Wales sometimes exceed their real implementation.²⁷

Though these studies are conducted mainly in Western countries and are based on self-reports and therefore cannot be directly transferred to India and do not deal with duties as those stated in section 193(3)(ii), they still have some value as explanatory tools showing the reason why the duty to inform is important irrespective of the outcome.

Indian Policing, Investigation and Reform Proposals

The literature on Indian policing describes an institution focused on the executive hierarchy rather than the public one, being the legacy of its colonial past (Bayley, 1969).²⁸ Human Rights Watch (2009) reports the refusal to register complaints, abusive actions, political interference and calls for the independent oversight and reform.²⁹ Status of Policing in India Report 2019 (Common Cause & Lokniti-CSDS, 2019) investigates the staffing and work conditions, the factors which influence the quality of investigations through

¹⁸ Hans von Hentig, *The Criminal and His Victim: Studies in the Sociobiology of Crime* (Yale University Press, New Haven, 1948); Marvin E. Wolfgang, *Patterns in Criminal Homicide* (University of Pennsylvania Press, Philadelphia, 1958); Stephen Schafer, *The Victim and His Criminal: A Study in Functional Responsibility* (Random House, New York, 1968).

¹⁹ Ezzat A. Fattah, *Towards a Critical Victimology* (St. Martin's Press, New York, 1992); Sandra Walklate, *Imagining the Victim of Crime* (Open University Press, Maidenhead, 2007).

²⁰ Paul Rock, *Constructing Victims' Rights: The Home Office, New Labour, and Victims* (Oxford University Press, Oxford, 2004).

²¹ Edna Erez, "Victim Participation in Sentencing: Rhetoric and Reality" 18 *Journal of Criminal Justice* 19 (1990); Andrew Ashworth, "Victim Impact Statements and Sentencing" [1993] *Crim LR* 498.

²² K.I. Vibhute, *Criminal Justice: A Human Rights Perspective of the Criminal Justice Process in India* (Eastern Book Company, Lucknow, 2004).

²³ J. Shapland, J. Willmore and P. Duff, *Victims in the Criminal Justice System* (Gower, Aldershot, 1985).

²⁴ Rebecca Campbell and Sheela Raja, "Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence" 14 *Violence and Victims* 261 (1999); Ulrich Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings" 15 *Social Justice Research* 313 (2002).

²⁵ Judith Lewis Herman, "The Mental Health of Crime Victims: Impact of Legal Intervention" 16 *Journal of Traumatic Stress* 159 (2003).

²⁶ Tom R. Tyler, *Why People Obey the Law* (Princeton University Press, Princeton, 2006); Tyler, *supra* note 13.

²⁷ Matthew Hall, *Victims of Crime: Policy and Practice in Criminal Justice* (Willan Publishing, Cullompton, 2009).

²⁸ David H. Bayley, *The Police and Political Development in India* (Princeton University Press, Princeton, 1969).

²⁹ Human Rights Watch, *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police* (Human Rights Watch, New York, 2009).

workload, training and resource availability.³⁰ Baxi (2014), in his ethnographic research of rape trials, demonstrates how the practice in court and the attitude of judges shape the experience of the complainant, and Human Rights Watch (2013) evaluates the forensic examination of rape victims and calls for adoption of the high standard.³¹

The proposals of the official bodies on the matter are relevant to this research. Malimath Committee (2003) suggested the separation of investigations from the wider law-and-order functions and the increased participation of victims together with a statutory compensation scheme.³² Verma Committee (2013), in its reporting after the 2012 Delhi gang rape, calls for the punishment for the failure to register the complaints of sexual offences and for police reform.³³ The Law Commission of India (2018), discussing the wrongful prosecutions, suggests establishing the statutory compensation scheme and accountability of the officials responsible for the miscarriage of justice.³⁴ The 154th Report of Law Commission of India (1996) gives a separate chapter on victimology and proposes a state-funded compensation for the victims,³⁵ while the Draft National Policy on Criminal Justice prepared by Madhava Menon Committee (2007) includes a chapter promoting victim-oriented orientation of criminal justice.³⁶ However, these are only recommendations and their implementation has not been investigated in the sources mentioned above.

Synthesis and Research Gap

Table 1 summarizes the literature according to the themes. Firstly, the theoretical literature supports the information-based victim rights, yet debates the level of participation. Secondly, the Indian literature identifies the institutional weaknesses in policing, but focuses on accused persons, custodial abuse, sexual violence trials and structural reform; therefore, the issue of victim-directed investigative duties is less developed. The criminological and victimological literature explains the way victims were recognized but is

mostly devoted to victimization and sentencing rather than investigative duties. Finally, the BNSS is quite new and was not yet subject to empirical research in the literature reviewed here. The gap addressed by this paper is therefore the stage-by-stage analysis using the accountability framework of whether victim-directed investigative duties in India are accountable, enforceable and victim-led, both before and after the BNSS.

Table 1. Thematic summary of the literature reviewed

Theme	Representative sources	Contribution	Limitation for present study
Models of victim participation	Packer (1964); Roach (1999); Ashworth (2000); Kirchengast (2006); Doak (2008); Wemmers (2017)	Distinguish service rights from decisive participation; ground victim standing in human rights	Developed mainly in Western common-law systems; limited attention to investigation-stage remedies
Criminology and victimology	von Hentig (1948); Wolfgang (1958); Schafer (1968); Fattah (1992); Vibhute (2004); Rock (2004); Walklate (2007); Erez (1990); Ashworth (1993)	Trace the move from victim-precipitation studies to critical, rights-based victimology; examine victim input in sentencing	Concerned mainly with victimisation and sentencing, not investigation-stage duties

³⁰ Common Cause and Lokniti-Centre for the Study of Developing Societies, *Status of Policing in India Report 2019: Police Adequacy and Working Conditions* (Common Cause, New Delhi, 2019).

³¹ Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (Oxford University Press, New Delhi, 2014); Human Rights Watch, *Dignity on Trial: India's Need for Sound Standards for Conducting and Interpreting Forensic Examinations of Rape Survivors* (Human Rights Watch, New York, 2013).

³² Malimath Committee Report, *supra* note 2.

³³ Government of India, *Report of the Committee on Amendments to Criminal Law* (2013).

³⁴ Law Commission of India, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies*, Report No. 277 (2018).

³⁵ Law Commission of India, *The Code of Criminal Procedure, 1973*, Report No. 154 (1996).

³⁶ Committee on Draft National Policy on Criminal Justice, *Draft National Policy on Criminal Justice* (Ministry of Home Affairs, 2007).

Theme	Representative sources	Contribution	Limitation for present study
Victim experience and procedural justice	Shapland et al. (1985); Campbell & Raja (1999); Orth (2002); Herman (2003); Tyler (2003, 2006); Hall (2009)	Link information, voice and respectful treatment to confidence and to secondary harm	Mostly self-reported data from outside India; do not test BNSS duties
Indian policing and the process in practice	Bayley (1969); Baxi (2014); Human Rights Watch (2009, 2013); Common Cause & Lokniti-CSDS (2019)	Document executive-oriented policing, refusals to register complaints, resource limits and treatment of complainants	Focus on accused persons, custody or sexual-violence trials; largely pre-date the BNSS
Official reform proposals and standards	Law Commission of India (1996, 2018); Malimath Committee (2003); Madhava Menon Committee (2007); Verma Committee (2013); UN General Assembly (1985); UNODC (1999)	Propose separation of investigation, penalties for non-registration, compensation and victim participation	Recommendations only; implementation not assessed here

Note. Sources are grouped by their main contribution; several span more than one theme.

Research Objectives

In broad terms, the goal of this research study is to determine the extent of the responsiveness of the Indian legal system in making investigating agencies accountable to crime victims. The research has set forth four objectives:

- (i) To define the obligations imposed upon investigating agencies under CrPC and BNSS with respect to crime victims and informants at registration, investigation, closure and the trial stage.³⁷
- (ii) To analyse, through Supreme Court decisions and government and non-governmental reports, the ways in which investigating agencies can be made responsible for the performance of their obligations, and whether victims can make use of them.
- (iii) To find out gaps between the obligations imposed and the responsibility of investigating agencies that can be enforced through the use of available national statistics with due care.³⁸
- (iv) To recommend reform measures that will fill these gaps without compromising the rights of the accused.

Research Questions and Propositions

The research raises four questions. RQ1: What obligations are imposed on investigating agencies by the CrPC and BNSS in relation to victims and informants, and how have these obligations changed in the two codes? RQ2: How can investigating agencies be made responsible for the performance of their obligations and whether victims can invoke them? RQ3: Where does a gap exist between obligations and responsibility that can be enforced? RQ4: What reform measures would overcome these gaps without reducing protection to the accused?

As the research is doctrinal in nature and there is no sampling plan, statistical hypothesis testing cannot be used. Three propositions will guide the analysis. P1: Obligations of investigating agencies to crime victims are more explicit than enforceable because many obligations are not accompanied by forum, consequence and mechanism for victim invocation. P2: Investigative judicial safeguards are more advanced for arrested and detained individuals than for crime victims. P3: National aggregate statistics are not adequate to show

³⁷ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 154; The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 173.

³⁸ National Crime Records Bureau, *supra* note 6.

whether investigating agencies perform victim-directed obligations. The Results and Findings section examines each of these propositions.

III. THEORETICAL AND CONCEPTUAL FRAMEWORK

Accountability as Answerability, Enforcement and Participation

This research follows Bovens's (2007) definition of accountability as a relationship between an actor and a forum where the former gives information and justification, the latter can inquire and debate, and a consequence may arise.³⁹ Schedler (1999) offers a similar definition across two criteria—answerability and enforcement—saying that without the ability to sanction, the former alone is insufficient.⁴⁰ For the victims, a third criterion is needed. Procedural justice studies show that people's evaluation of legal authorities depends on the ability to give voice, be treated with respect, and receive explanations (Tyler, 2003, 2006); Doak (2008) argues that victims should have standing independently of the State. In this way, the participation component—the ability of the victim to use the procedure—is added.

Normative Orientation

The models developed by Packer (1964) provide a methodology for analyzing the reform proposals. Roach (1999) suggested that victims' rights did not have to go down the crime-control and repressive road and that there was a non-punitive model with information, assistance, and proper treatment of victims closer to the due process one. This research adheres to this normative orientation: accountability measures are assessed according to how well they could serve victims while maintaining the protections of the accused created by the Indian courts. The 1985 UN Declaration is a universally recognized benchmark for the contents of the victims' rights.⁴¹

Analytical Grid

The analysis goes through four stages of the process, with four diagnostic questions. These stages are: (i) registration, (ii) investigation, (iii) closure (the charge-sheet or the final report), and (iv) the interaction with the trial stage. The

questions are: (1) Does it involve a duty for the victim/informant? (2) Is there any forum other than the official involved who can ask for an explanation? (3) Can a consequence arise from non-performance? (4) Can the victim use the forum herself? Duty satisfying all four criteria is deemed to be highly accountable; duty satisfying only the first criterion is considered weakly accountable. Table 3 uses the grid. Coding is interpretive and clearly marked as such.

IV. RESEARCH METHODOLOGY

Approach and Design

The research is doctrinal and analytical. Doctrinal research here means the systematic identification, interpretation and critical evaluation of legal rules and the authorities that apply them. It is supplemented by descriptive use of published secondary statistics. The design is stage-based: the unit of analysis is a duty owed to a victim or informant at a stated stage of the process, which is traced through statute, case law and reports and then coded using the analytical grid. The design suits the question because the central issue is what the law requires and enforces, not how victims or officers behave. Table 2 aligns the objectives, questions and methods.

Table 2. Alignment of objectives, research questions and methods

Objective	Research question	Method	Principal materials	Addressed in
1. Identify victim-directed duties	RQ1	Textual comparison of CrPC and BNSS provisions	CrPC; BNSS; BNS; POCSO Act	Finding 1; Table 3
2. Assess answerability mechanisms	RQ2	Case-law analysis and review of reports	Thirteen Supreme Court decisions; committee and NGO reports	Findings 2–3; Table 4

³⁹ Bovens, *supra* note 8.

⁴⁰ Schedler, *supra* note 10.

⁴¹ United Nations General Assembly, *supra* note 16.

Objective	Research question	Method	Principal materials	Addressed in
3. Identify gaps	RQ3	Application of the analytical grid; descriptive use of NCRB data	Table 3 coding; NCRB (2025); Common Cause & Lokniti-CSDS (2019)	Findings 1, 4 and 5
4. Propose reforms	RQ4	Linking recommendations to findings; test against due-process orientation	Findings 1–5	Recommendations; Table 5

Note. CrPC = Code of Criminal Procedure 1973; BNSS = Bharatiya Nagarik Suraksha Sanhita 2023; BNS = Bharatiya Nyaya Sanhita 2023; POCSO = Protection of Children from Sexual Offences Act 2012; NCRB = National Crime Records Bureau.

Scope, Sources and Case Selection

The study includes the Indian sub-continent as geographic scope and relies on national law. Temporal scope covers the period starting from the enactment of the Code of Criminal Procedure (CrPC) in 1973 until the BNSS entering into force on 1 July 2024. Since the BNSS is a recent document, the analysis is performed through its text, and no implementation data have been reviewed. As primary sources one can use the Constitution, the CrPC, the BNSS, other laws, and Supreme Court decisions. Secondary sources consist of committee reports, law commission reports, reports of NGOs, NCRB statistics, and literature. Other decisions and reports are provided for illustration purposes and not coded in Table 4.

Supreme Court decisions were chosen purposely. If a decision concerned information registration, investigation closure, arrest or custody protections, police reform, or victim involvement and was well-cited on the matter, then it was taken into account. Altogether thirteen decisions meet such criteria and are listed in Table 4. Decisions of High Courts and decisions of the Supreme Court concerning procedure during the trial without referring to investigation were

ignored. The list does not claim exhaustiveness and represents the opinion of authors regarding the leading authorities.

Analysis, Reliability, and Ethics

The provisions and decisions were coded in accordance with four diagnostic questions of the analytic grid. Further each Supreme Court decision was classified by the category of principal beneficiary of the protection, which it creates – the victim, the accused or the detainee, or institutional one. Reliability depends on the described coding rules and triangulation of the data provided by statutes, case-law, and independent reports. Coding is presented in Tables 3 and 4 and can be reproduced or disputed. Analysis has been done by one coder and inter-coder reliability has not been checked. Statistics are provided descriptively with no statistical tests performed. The study uses only publicly available documents, and does not include any human subjects. Therefore, no ethical approval or informed consent was needed.

V. RESULTS AND FINDINGS

The findings rest on the legal materials and reports described above. They are analytical and not statistical, apart from the two NCRB figures in Finding 4.

Finding 1: Victim-Directed Duties Have Expanded but Are Unevenly Equipped with Remedies

Section 154 of the CrPC made it obligatory that information about a cognizable offense be recorded and a copy provided to the informant with a recourse against non-compliance to the Superintendent of Police while another recourse remained available through Section 156(3) of the CrPC to the Magistrate. BNSS retains this arrangement through Section 173 while incorporating electronic registration, registration at any police station irrespective of jurisdictional boundaries and a preliminary inquiry to last for up to fourteen days provided that it had been authorized beforehand by an officer not below the rank of Deputy Superintendent of Police for offenses punishable with three years but less than seven.⁴² In *Lalita Kumari v. Government of Uttar Pradesh*, it was made clear that registration was necessary wherever information revealed a cognizable offense while preliminary inquiry could be made only in certain classes of offense with the outer limit of seven days.⁴³ *Ramesh Kumari v. State (NCT of Delhi)*

⁴² BNSS, s. 173(1)–(4); CrPC, ss. 154 and 156(3).

⁴³ *Lalita Kumari v. Government of Uttar Pradesh*, (2014) 2 SCC 1.

had already adopted such a position regarding the necessity of mandatory registration.⁴⁴ BNSS provides, therefore, statutory backing to inquiry in certain classes of offense, albeit with a narrower discretion left to the Courts.

During the investigation, BNSS makes it obligatory that forensic experts appear on the scene of the crime in the cases of offenses punishable by seven years or more and audio-visual recording of searches and seizures as well as sets two months' time limit for certain sexual offenses.⁴⁵ All these provisions are mainly evidential in character and thus indirectly beneficial to victims as the victim himself can never use them and there is no provision for punishment for exceeding the stated time limits.

During closure, the CrPC compelled the police to give notice of what action they had taken to the informant (Section 173(2)(ii)). Section 193(3)(ii) of BNSS emphasizes this obligation by setting ninety-day deadline to it, expanding the list of those to whom it is applicable to include the victim as well as permitting electronic notification. Further investigations after charge-sheet in accordance with BNSS could continue with the permission of the court and must be carried out within ninety days or longer with the court's permission.⁴⁶ Text of Section 193(3)(ii) itself provides for no consequence of non-compliance or forum for victim's redress. In a different line of authority, in *Bhagwant Singh v. Commissioner of Police*, the Court held that the informant must be informed and an opportunity to be heard must be provided to him before accepting the closure report by the Magistrate.⁴⁷

At the point of interaction with trial, Section 230 BNSS states that the police report along with accompanying documents will be supplied to the accused and, in cases when the accused is represented by lawyer, to the victim as well. Section 360 makes it obligatory to give an opportunity to the victim to be heard before withdrawing from prosecution. Sections 396 and 397 repeat provisions related to compensation and medical treatment.⁴⁸ Supreme Court encouraged courts to use their power to give compensation to the victims under Section 357 of the CrPC (*Hari Singh v. Sukhbir Singh*) and has stated that compensation should be awarded in every criminal case

(*Ankush Shivaji Gaikwad v. State of Maharashtra*). In the rape cases, Supreme Court recognized the power of courts to give interim compensation during trial (*Bodhisattwa Gautam v. Subhra Chakraborty*).⁴⁹ Table 3 applies the analytical framework to eight duties derived from the above-stated stages.

Table 3. Stage-wise analysis of victim-directed investigative duties against the accountability grid

Duty and source	Forum other than the officer	Consequence of non-compliance	Victim can invoke?	Assessment
Registration and free copy of information (BNSS s. 173; CrPC s. 154)	Superintendent of Police; Magistrate	Judicial direction to investigate ; disciplinary or penal action for non-registration	Yes	Stronger
Preliminary enquiry within 14 days for offences of 3 to under 7 years (BNSS s. 173(3); new)	Senior officer who grants permission	Not stated in text	Indirectly, after refusal to register	Partial
Completion of investigation within two months for specified sexual offences (BNSS s. 193(2); CrPC s. 173(1A))	Supervisory officers; courts through general powers	Not stated in text	Limited	Partial

⁴⁴ *Ramesh Kumari v. State (NCT of Delhi)*, (2006) 2 SCC 677.

⁴⁵ BNSS, ss. 105, 176(3) and 193(2).

⁴⁶ BNSS, s. 193(9) proviso; CrPC, s. 173(8).

⁴⁷ *Bhagwant Singh v. Commissioner of Police*, (1985) 2 SCC 537.

⁴⁸ BNSS, ss. 230, 360, 396 and 397; CrPC, ss. 207, 321, 357A and 357C.

⁴⁹ *Hari Singh v. Sukhbir Singh*, (1988) 4 SCC 551; *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770; *Bodhisattwa Gautam v. Subhra Chakraborty*, (1996) 1 SCC 490.

Duty and source	Forum other than the officer	Consequence of non-compliance	Victim can invoke?	Assessment
Forensic visit and recording of search and seizure (BNSS ss. 176(3), 105)	Court at trial	Evidentiary scrutiny	No	Indirect
Progress communication within 90 days (BNSS s. 193(3)(ii); CrPC s. 173(2)(ii))	None named in provision	Not stated in text	Not expressly	Weak
Notice and hearing before closure report is accepted (<i>Bhagwant Singh</i>)	Magistrate	Magistrate may reject report, direct further investigation or take cognizance	Yes	Stronger
Further investigation after charge-sheet within 90 days (BNSS s. 193(9); CrPC s. 173(8))	Trial court	Court controls permission and extension	Through general right to be heard	Partial
Copy of police report and documents to victim (BNSS s. 230; CrPC s. 207)	Magistrate	Procedural irregularity	Yes, if represented by an advocate	Partial

Note. Coding is the authors' interpretation. Stronger = duty, forum, consequence and victim access all present; Partial = duty present but at least one other element missing or unclear; Weak = duty with no forum or consequence identified in the text; Indirect = benefit to the victim arises through another

process that the victim cannot invoke. Eight duties were coded: two Stronger, four Partial, one Weak and one Indirect.

As Table 3 shows, only two of the eight duties, registration and notice before closure, combine all four elements, and the closure-notice protection derives from a judicial decision and not from a statutory provision identified in the BNSS text reviewed. The newest and most visible victim-directed duty, the ninety-day communication, is coded Weak because the provision states neither a forum nor a consequence. This supports proposition P1, subject to the interpretive nature of the coding.⁵⁰

Finding 2: Custody and Arrest Safeguards Are More Fully Developed Than Victim-Directed Investigative Duties

Table 4 lists the thirteen decisions with the principal beneficiary of each.⁵¹ Seven primarily concern victims, four concern arrested or detained persons, and two concern institutional structure. Five of the seven victim-focused decisions were reported in 2014 or later, whereas two of the four custody and arrest decisions were reported before 1998. On the authors' coding, only *Bhagwant Singh* and *Lalita Kumari* directly regulate what investigating agencies must do for an informant or victim; the others operate at the court stage (*Mallikarjun Kodagali*, *Jagjeet Singh*, *Zahira*) or through state-run schemes (*Nipun Saxena*, *Mahender Chawla*).

Table 4. Selected Supreme Court decisions by principal beneficiary of the safeguard

Decision (SCC citation)	Principal holding (paraphrased)	Principal beneficiary
<i>Bhagwant Singh</i> (1985) 2 SCC 537	Informant must receive notice and a hearing before closure report is accepted	Victim
<i>Joginder Kumar</i> (1994) 4 SCC 260	Arrest must be justified and not routine; arrestee's right to inform a person of the arrest	Accused
<i>D.K. Basu</i> (1997) 1 SCC 416	Binding custodial safeguards, including memo of arrest and medical examination	Accused

⁵⁰ BNSS, ss. 105, 173, 176(3), 193(2), 193(3)(ii), 193(9) and 230; CrPC, ss. 154, 173(1A), 173(2)(ii), 173(8) and 207; *Bhagwant Singh*, *supra* note 47.

⁵¹ The decisions are reported in *Supreme Court Cases* (SCC); the citation of each is given in Table 4.

Decision (SCC citation)	Principal holding (paraphrased)	Principal beneficiary
<i>Vineet Narain</i> (1998) 1 SCC 226 ⁵²	Court-monitored investigation and institutional insulation of the CBI from executive interference	Institutional
<i>Zahira</i> (2004) 4 SCC 158	Fair trial extends to victims and society; courts may act where investigation or prosecution is tainted	Victim
<i>Prakash Singh</i> (2006) 8 SCC 1	Directions for police reform, including oversight bodies, complaints authorities and separation of investigation from law and order	Institutional
<i>Lalita Kumari</i> (2014) 2 SCC 1	Registration mandatory where information discloses a cognizable offence; limited preliminary enquiry; action against defaulting officials	Victim
<i>Arnesh Kumar</i> (2014) 8 SCC 273	Officers must record reasons for arrest; magistrates must verify compliance	Accused
<i>Mallikarjun Kodagali</i> (2019) 2 SCC 752 ⁵³	Victim may appeal against acquittal without leave	Victim
<i>Nipun Saxena</i> (2019) 2 SCC 703	Compensation scheme for sexual-offence victims to be followed; limits on disclosing victim identity	Victim
<i>Mahender Chawla</i> (2019) 14 SCC 615	Witness Protection Scheme approved as binding pending legislation	Victim
<i>Paramvir Singh Saini</i> (2021) 1 SCC 184	Recording devices and oversight in police stations to deter custodial abuse	Accused

Decision (SCC citation)	Principal holding (paraphrased)	Principal beneficiary
<i>Jagjeet Singh</i> (2022) 9 SCC 321	Victim has a right to be heard at every stage including bail; State's presence does not substitute	Victim

Note. Classification by principal beneficiary is the authors' interpretation. Counts: Victim = 7; Accused or detained person = 4; Institutional = 2; total 13. Year is the year of the law-report citation.

The custody decisions carry operative directions and stated consequences. *D.K. Basu*, for example, stated that non-compliance would expose officials to departmental action and contempt of court.⁵⁴ *Lalita Kumari* is the main victim-facing counterpart with comparable consequences. Outside the thirteen coded decisions, *Delhi Domestic Working Women's Forum v. Union of India* gave police-stage directions for sexual-assault complainants, including that the complainant be informed of her right to legal assistance before being questioned, and called for a criminal injuries compensation scheme.⁵⁵ The Court has also treated fair investigation as part of the guarantee under Articles 20 and 21 (*Babubhai v. State of Gujarat*) and has said that a victim of crime is equally entitled to it (*Nirmal Singh Kahlon v. State of Punjab*), but these are statements of principle and do not themselves prescribe a stage-specific duty or forum.⁵⁶ P2 is therefore tentatively supported, with the caution that the set is small and purposive and that one victim-focused decision does carry explicit consequences.

Finding 3: Accountability Mechanisms Are Mainly Hierarchical or Litigation-Dependent

The mechanisms identified may be categorized into four groups: internal hierarchy (petition to the Superintendent of Police and discipline in the department); judicial oversight (the power of the Magistrate to direct registration and closure of a case, the Supreme Court reading the power of the Magistrate to supervise the investigation (in *Sakiri Vasu*) and conditioning judicial supervision of investigation on resorting

⁵² *Vineet Narain v. Union of India*, (1998) 1 SCC 226.

⁵³ *Mallikarjun Kodagali v. State of Karnataka*, (2019) 2 SCC 752.

⁵⁴ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

⁵⁵ *Delhi Domestic Working Women's Forum v. Union of India*, (1995) 1 SCC 14.

⁵⁶ *Babubhai v. State of Gujarat*, (2010) 12 SCC 254; *Nirmal Singh Kahlon v. State of Punjab*, (2009) 1 SCC 441.

to the hierarchy of the police (Priyanka Srivastava);⁵⁷ and the writ and inherent powers of the High Courts, extending to directing investigation of the Central Bureau of Investigation in exceptional cases (State of West Bengal v. Committee for Protection of Democratic Rights)⁵⁸; statutory liability (the offence of non-recording of information on offences); and institutional oversight (police complaints authorities and the separation of investigation and law and order in Prakash Singh, in addition to the court-monitored scheme in Vineet Narain).⁵⁹ The Law Commission of India (2018) proposes a statutory scheme for compensation and accountability in the event of wrongful prosecution; however, the present study did not find any example of its implementation in the materials reviewed. In most mechanisms, victims have to initiate the process of accountability, generally in the form of litigation, which costs both money and time; the sources reviewed do not provide information as to how often victims engage in such actions. Public law remedies provided by Article 32 and 226 offer financial relief for violations by state institutions (Rudul Sah v. State of Bihar; Nilabati Behera v. State of Orissa);⁶⁰ however, even such remedy requires writ litigation brought by the aggrieved party.

Finding 4: Aggregative Statistics Cannot Provide Indication of Compliance with Victim-Directed Duties

The NCRB (2025) reported 72.7 percent of charge-sheeted and 54.0 percent of convicted cases of IPC crimes in 2023.⁶¹ A case might fail because of an investigative error, but it could also fail because of witnesses' attrition, delays in the trial, or the evidential criteria. Aggregative statistics do not differentiate between these possible causes. Furthermore, the indicators reported do not register whether the free copy of the FIR has been provided, whether a ninety-day update was delivered, or whether a closure report was notified to the victim. Therefore, Hypothesis 3 (P3) holds true: the available aggregative statistics do not provide a measure of compliance with victim-directed duties and cannot be used for this purpose.

Finding 5: Resource and Capacity Constraints Influence the Assessment of Agencies

The Status of Policing in India Report 2019 (Common Cause & Lokniti-CSDS, 2019) argues that the effectiveness of policing depends on the number of staff members, working time, and training programs. Human Rights Watch (2009) found cases of refusal or discouragement to submit complaints and continued use of abusive practices, while Human Rights Watch (2013) reported poor forensic examination of rape survivors. These findings, when compared with secondary victimization literature (Campbell & Raja, 1999; Orth, 2002), show that failure to perform victim-directed duties not only indicates the unwillingness of the police but also reflects resource and capacity constraints as well as organizational culture. An accountability scheme that ignores resource constraints will result in punishment for structural problems.

Answers to the Research Questions

RQ1: The BNSS enhances or elaborates duties regarding registration, forensic and recording protections, time limits, notification of progress, and availability of documents to victims, without changing the framework of the CrPC (Finding 1). RQ2: Mechanisms are mostly hierarchical, judicial, and litigative, with victims having access to them at the stages of registration and closure (Findings 1 and 3). RQ3: Principal gaps are lack of designated forum and consequence for the ninety-day notification and time limit requirements, reliance on case law of the right to closure notice, and lack of information about compliance with duties (Findings 1 and 4). RQ4 is answered in the recommendations section.

VI. DISCUSSION

The findings correspond with the theoretical literature. Roach (1999) and Ashworth (2000) have treated information and respect as two of the least controversial victims' rights. The BNSS has made some progress along this front. However, Schedler's (1999) argument that without enforcement, there is no accountability helps to explain the limitations of the accountability duty like section 193(3)(ii), which makes the officer accountable but lacks any enforcement provision. The argument of Doak (2008) that victims' involvement should be

⁵⁷ Sakiri Vasu v. State of U.P., (2008) 2 SCC 409; Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287.

⁵⁸ State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571.

⁵⁹ Prakash Singh v. Union of India, (2006) 8 SCC 1; Vineet Narain, *supra* note 52.

⁶⁰ Rudul Sah v. State of Bihar, (1983) 4 SCC 141; Nilabati Behera v. State of Orissa, (1993) 2 SCC 746.

⁶¹ National Crime Records Bureau, *supra* note 6.

based on their position⁶² is exemplified in Jagjeet Singh;⁶³ however, the ruling has been in the bail/ appeal process, meaning that victims' involvement in the investigative process will depend mainly on the officer and the Magistrate.

It was expected that custody protections would be more developed than victim-oriented obligations in view of the policing literature, where abuse of the suspect has been recognized as the main issue of accountability (Bayley, 1969; Human Rights Watch, 2009).⁶⁴ It was not meant to criticize custody protections, just that since the mechanisms developed to ensure accountability of one group can be used for the other. There have been numerous alternative explanations and doubts that need to be mentioned. First, the low level of enforcement can be explained by capacity limits (Finding 5), although it is supported only indirectly by the Status of Policing in India Report (2019).

Second, the BNSS is rather new, and the absence of any enforcement mechanism in section 193(3)(ii) may be covered by some rules and standing orders that were not studied here. Third, the coding in Tables 3 and 4 was interpretive. Fourth, there is a danger of over-formalization: a mandatory letter of notification might be just a routine procedure or could jeopardize the sensitive case if the information is disclosed improperly. The data presented in this paper is doctrinal and descriptive. It proves that there is a relationship between statutory design and enforcement, but not that such discrepancies lead to poor treatment of victims, and NCRB statistics cannot be considered to prove the causality of this kind.

Implications and Recommendations

Each recommendation relates to a particular finding and names the responsible party; all three elements are provided in Table 5.

First, the ninety day communication must receive a formal venue and consequences for failure (Finding 1). Statutory requirements or standing orders should state the format and content of the update, mandate recording of this communication in the case file and Crime and Criminal Tracking Network and System, and permit a complaining victim to approach the Superintendent of Police and then file

a grievance with the Magistrate. Failure to make the update should serve as justification for reviewing the matter by a supervisor. The updates may be written in a way to not jeopardize the ongoing investigation.

Second, the notice-before-closure requirement recognized in Bhagwant Singh must be codified in statute or rulemaking and expressly apply to the victim so as to not depend on case law (Finding 1). Third, the National Crime Records Bureau (NCRB) and State crime records bureaus must release indicators of compliance that do not currently exist in their data: percentage of cases in which a free copy of the first information report is issued, percentage of cases with a ninety-day update, percentage of preliminary enquiries completed within fourteen days, and percentage of closure reports that include notice to the victim (Finding 4).

Fourth, auditing of the implementation of structural directions in Prakash Singh, including separation of investigation functions from law and order and creation of functioning complaints authority, should take place, as it is acknowledged by Malimath Committee (2003) and the Court as necessary condition for enhanced investigation (Finding 3). Fifth, any new duty must come along with adequate resource allocation to ensure forensic capacity, personnel, and training, as it is implied in sections 176(3) and two-month period by Status of Policing in India Report 2019 (Finding 5).

Sixth, High Courts must issue practice direction for victim notice at both bail and closure stages, as in Jagjeet Singh and Bhagwant Singh (Finding 2). Finally, each new victim-centered procedure must be reviewed according to the principles of due process developed in custodial cases to ensure complementarity between these two sets of protections (Ashworth, 2000).⁶⁵ This task has been already done in *Nipun Saxena v. Union of India* compensation scheme and in *Mahender Chawla v. Union of India* witness protection scheme.⁶⁶

⁶² Doak, *supra* note 14.

⁶³ *Jagjeet Singh v. Ashish Mishra*, *supra* note 5.

⁶⁴ Bayley, *supra* note 28; Human Rights Watch, *supra* note 29.

⁶⁵ Ashworth, *supra* note 12.

⁶⁶ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703; *Mahender Chawla v. Union of India*, (2019) 14 SCC 615.

Table 5. Recommendations linked to findings, responsible actors and indicators

Recommendation	Finding addressed	Responsible actor	Possible indicator
Prescribe form, recording and review route for the 90-day update	Finding 1	State governments and police headquarters	Share of cases with recorded update
Place closure notice to informant or victim on a statutory footing	Findings 1 and 2	Parliament or rule-making authority	Share of closure reports published
Publish compliance data on victim-directed duties	Finding 4	NCRB; State crime records bureaus	Annual indicators published
Audit implementation of structural police reform directions	Finding 3	State governments; courts	Audit report completed and promptness
Resource forensic, staffing and training needs	Finding 5	Home departments	Vacancy and forensic visit compliance rates
Issue High Court practice directions on notice to victims	Finding 2	High Courts	Directions issued and followed

Note. Indicators are illustrative; targets would need to be set after baseline data are collected.

VII. LIMITATIONS AND FUTURE RESEARCH

In the present study, the approach adopted is doctrinal, and the use of secondary sources alone makes it impossible to determine the extent to which victim-directed duties are undertaken or the experiences of victims. The thirteen case law judgments have been purposively chosen and exclude High Court judgments, which may have further relevant developments. Interpretative coding of the duties and decisions was done by a single coder without the inter-coder reliability checks. The BNSS has been analyzed on the basis of its textual provisions, and implementation information, rules, and State standing orders have not been reviewed; therefore, the reality in practice may be different from what is stated or has changed. The NCRB statistics are annual national aggregates and are used for descriptive purposes only.⁶⁷ Most of the literature in victimology theory and practice is from outside India, thus, it is not known if there are any existing rules that foresee the results discussed in this paper.

Future studies may (a) review compliance with Section 193(3)(ii) through court records and right to information requests, (b) conduct a survey of victims and informants about the information they receive, (c) conduct interviews of

the investigating officers about the difficulties they face, (d) compare States issuing standing orders with those who do not issue standing orders, and (e) examine the practices of the High Courts on victim notice. These studies would convert the hypotheses tested in this paper into empirical questions. This research expands on the Indian legal system holds investigating agencies accountable to victims. The analysis finds an emerging trend towards the recognition of the victim in law and identifies that the BNSS requires duties of information and promptness. However, out of eight victim-related duties analyzed, only two include a duty, forum, consequence, and a channel through which the victim can obtain redress, and of those two, one is based on case law. The latest obligation, i.e., ninety-day update notification, has the fewest guarantees of remedies. More comprehensive safeguards for suspects and accused people are provided in the law; national statistics do not show whether victim-related duties are fulfilled.

The paper proposes an accountability structure in stages including answerability, participation, and enforcement and applies it to the transition from CrPC to BNSS. The main value of the research comes from the discovery that victims' trust in the procedure not only depends on the listed statutory rights but also on the presence of mechanisms to hold actors responsible for failing to fulfill the duties and to explain it. The key practical consequences of the research are: to include a forum and consequence into existing obligations, to collect data on compliance, and to provide necessary funding for the agencies performing these duties without undermining the rights guaranteed by the Indian courts. The conclusions of the research are doctrinal and indicative, and further empirical research of the BNSS is a crucial step to take.⁶⁸

⁶⁷ National Crime Records Bureau, *supra* note 6.

⁶⁸ The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023); The Code of Criminal Procedure, 1973 (Act 2 of 1974).